



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CONSUMER SERVICES

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**CONSUMER LOAN ACT**

**INTERPRETIVE STATEMENT-01-07**

**DATE:** April 16, 2007

**FROM:** Deborah Bortner, Director, Division of Consumer Services

**RE:** Licensing Branch Offices under the Consumer Loan Act, chapter 31.04 RCW

**QUESTION PRESENTED:** If a Consumer Loan Act (CLA) licensee has branch offices offering loans to Washington consumers, must all branch offices also hold CLA licenses regardless of the type of residential mortgage loan activity conducted at that location?

**DISCUSSION:** In order to engage in the business of making loans to Washington consumers at interest rates higher than that allowed under Washington's usury statute, chapter 19.52 RCW, a company must first obtain and maintain a CLA license. The CLA allows only one location under each CLA license; however, a CLA licensee may hold more than one CLA license. The CLA does not provide exceptions to the licensing requirements based on the type of loan products offered at the company locations. The CLA does not provide an exception to the licensing requirement for branch offices located outside of Washington.

**CONCLUSION:** The Director finds that when a company holds a CLA license, the company must license each branch office that provides loans to Washington consumers (both in and outside of Washington) regardless of the type of loan product offered at the branch office.

Prepared by: Cindy Fazio, Staff Attorney

**STATUTES AND RULES RELIED UPON:** (Chapter 31.04 RCW and chapter 208-620 WAC)

**31.04.035 License required.**

No person may engage in the business of making secured or unsecured loans of money, credit, or things in action at interest rates authorized by this chapter without first obtaining and maintaining a license in accordance with this chapter.

**31.04.065 License — Information contained — Requirement to post.**

The license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a copartnership or association, the names of its members, and if a corporation, the date and place of its incorporation. The licensee shall conspicuously post the license in the place of business of the licensee. The license is not transferable or assignable.

#### **31.04.075 Licensee — Place of business.**

The licensee may not maintain more than one place of business under the same license, but the director may issue more than one license to the same licensee upon application by the licensee in a form and manner established by the director.

Whenever a licensee wishes to change the place of business to a street address other than that designated in the license, the licensee shall give written notice to the director as required by rule, pay the license fee, and obtain the director's approval.

#### **208-620-250 If my out-of-state company applies for a license under the Consumer Loan Act do we have to have a branch in the state of Washington?**

You are not required to maintain a physical presence in this state to get a license but any location doing business under the act, wherever located, must be licensed.

#### **208-620-270 Can I make a loan subject to the act without first getting a license?**

If you make a loan that is subject to the act, you must either get a license or risk violating the Usury Act which limits the rate of interest a lender can charge Washington state residents. Further, if you make a loan without a consumer loan license and the loan is secured by residential real estate, you risk violating the Mortgage Broker Practices Act, chapter 19.146 RCW.

#### **208-620-300 If I want to open more than one office, do I have to file an application for each location?**

A licensee must complete a consumer loan license application for each consumer loan company branch office, loan servicing location or direct solicitation location, and provide evidence of surety bond coverage for any additional branch. The director may require that all or some of the information provided in the original application be updated.

#### **208-620-310 Is it necessary to license an office that is only providing underwriting and other back-office services?**

A location that is solely providing underwriting and other back-office services on Washington loans and has only incidental contact with the borrower, is not required to be licensed.

#### **208-620-380 Are there any additional requirements for out-of-state licensees?**

(1) All locations must be licensed. Any person that conducts business under the act with Washington residents must obtain a license for all locations from which business is conducted, including out-of-state locations, with the exception of those office locations providing only underwriting and back office services under WAC 208-620-310.

(2) Keeping records out-of-state. The director may approve the maintenance of a licensee's records at an out-of-state location. The licensee must request approval in writing and must agree to provide the director access to the records and pay the hourly rate plus travel costs pursuant to WAC 208-620-590. Agreement to allow access to the records is a condition of licensing of an out-of-state location.

(3) Service on out-of-state licensee. An out-of-state licensee's registered agent in Washington is the licensee's agent for service of process, notice, or demand.

**208-620-390 If I am offering loans by mail or internet to Washington residents, do I have to license those locations?**

Any person that conducts business under the act with Washington residents must obtain a license for all locations including those that offer loans by mail or internet.

**208-620-395 Do I need to display my license in my place of business?**

Yes. The main office and branch office license must be conspicuously displayed at the licensed location.

**208-620-420 May I transact business in a name other than the name on my license?**

No. A licensee may transact business such as making a loan or providing applicable disclosures only under the name on the license. A licensee may apply to the department to add a trade name to its license but it may not use the DBA (doing business as) alone to transact business.

**208-620-425 May I transfer my license?**

No. A license is given to a specific entity with specific individuals at a specific location. If all or part of the business is transferred or sold to another person, the licensee is required to notify the department prior to transfer so the department can determine if the new person is qualified to own all or part of the business.

**208-620-470 Do I need to notify the department if I move the location of my office?**

Before doing business under the act from a new location, either a main office or a branch office, a licensee must file an amendment for a change of address and obtain approval from the director.

**208-620-500 What are my reporting requirements if I want to close one or more of my branch offices?**

(1) **Closing a branch office.** If you close a branch office, you must notify the department using the Consumer Loan Office Closure Form and return the original license.

(2) **Closing the business.** If you are going to close your business, you must notify the department using the Consumer Loan Office Closure Form, along with the annual report and worksheet, any fees due and return the original licenses.

**208-620-580 As a licensee, will my business be subject to periodic examinations?**

Each consumer loan company can expect to be visited periodically by the department's examiners. The director or designee may examine, wherever located, the records used in the business of every licensee and of every person who is engaged in the consumer loan business, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. For that purpose the director or designee shall have free access, at reasonable times during business hours, to the offices and places of business and all books and records of the business.